# Utah Rules of Juvenile Procedure Committee- Meeting Minutes

Nov. 6, 200	9	Noon '	To 2:00 p.m.		Room B & C
MEETING D		TIME		— LOCATION	
MEMBERS:	Present Absent E	xcused	MEMBERS:	Present	Absent Excused
Judge Elizabeth Lindsley			Renee Jimenez		
Judge Larry Steele			David Johnson		
Carol Verdoia			Narda Beas-Nordell		
Brent Bartholomew			Alan Sevison		
Matty Branch			Pam Vickery		
Joan Carroll			Paul Wake		
Angela Fonnesbeck					
Brent Hall					
AOC STAFF:	Present Absent		GUESTS:	Present	: Absent
Katie Gregory					
Whitney Kania					

#### AGENDA TOPIC

I. Welcome & Approv	al of minutes	CHAIR: CAROL VERDOIA
Corrections to the Min	nutes: None	enterente de productiva de la companya de la compa
Motion: To approve the minutes of August 14, 2009 as written.	By: David Johnson	Second: Brent Hall
Approval	□ Unanimous	☐ Vote: # In Favor # Opposed

#### AGENDA TOPIC

II. Rule 36-Cases Certified From District Court	[PRESENTER] JUDGE LINDSLEY
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### Discussion:

Judge Lindsley drafted proposed revisions to Rule 36 and Rule 3, which were sent to members by email. The committee discussed the impact of the revisions on various issues, including:

- establishing paternity,
- protective orders and
- determining the "prevailing party" for purposes of preparing the order. It was suggested that the language in (b)(1) and (b)(2) be revised to include preparation of the order "by the prevailing party or as otherwise directed by the court."
- Paragraph (a) should be renumbered because two subparagraphs were numbered (a)(3).
- References to "visitation" should also be changed to "parent-time" to track statutory language.
- Should we include a notation that all orders are final and appealable? After discussion the committee agreed that some orders might be temporary and a blanket statement could be misleading.

## Summary of Proposed changes:

- 1. Substitute "parent time" for visitation in (a)(1), (a)(2), (b)(1) and (b (2).
- 2. The second reference to "(a)(3)" should be renumbered "(a)(4)."

3. Add the clause "or a (b)(1) and (b)(2).	s otherwise directed by the court" after "the prevailing party" in
Motion: To approve the draft of Rule 36 with the changes described in 1-3 above. Note that David Johnson made a friendly amendment to add commas before and after the clause in proposed change 3 above. The friendly amendment was accepted.	By: Judge Lindsley Second: Joan Carroll
Approval	□ Vote:     □ In Favor Opposed
Motion: Motion to approve Rule 3 as revised by substituting the word "transferred" for "certified" in Rule 3(a) and (b)(5) and substituting "parent time" for "visitation" in (b)(5).	By: Judge Lindsley Second: Brent Hall
Approval	☐ Vote: # In Favor # Opposed
Action Item: Katie Gregory	Send Revised Rules 3 and 36 to Tim Shea to initiate comment period. Attach redlined copies of both Rules 3 and 36 to the minutes.

## **AGENDA TOPIC**

III. Update Regarding Rule 25A -Withdrawal	[PRESENTER] CAROL VERDOIA; JUDGE LINDSLEY
of Pleas	

Discussion: Rule 25A was reviewed by the Board of Juvenile Court Judges and was sent out for comment. The comment period ends November 17, and no official comments have been received. Carol received informal comments from her peers in the AG's Appellate Division and Judge Lindsley received informal comments by two of the juvenile judges.

Some of concerns expressed informally included:

- 1. Why doesn't the rule require a withdrawal to be done by motion, or at least in writing? After consideration, the committee agreed that generally, a withdrawal should be in writing. However, the committee also suggested that a party who orally withdraws a plea on the record be allowed to do so, if they follow up with a written withdrawal.
- 2. What is the impact of <u>Ostler v. State</u>? In the adult criminal context, the right to withdraw a plea is set in statute. However, committee members noted that adult criminal procedure is contained in statute as well as rule.

Judge Lindsley will look up the Ostler case and will bring the issue back at the committee's next

Action Item: Judge	Review the Ostler c	ase and report back to	the committee at its nex
Lindsley.	meeting.	add and report back to	the committee at its mo
Motion: NONE	Ву:	Second:	
Approval	☐ Unanimous [	□ Vote: # In Favor	# Opposed
NDA TOPIC			
IV. Notice of Publication in Parental Rights Actions	n Termination of	[PRESENTER] BRENT BART	THOLOMEW
of summons) govern the iss 202.09(9) also suggests pul however, that committee m	olication by the child's	s initials and month/yea	ar of birth. (Note,
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